IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.82/03

Prabhu Narain Sharma & Anr.

Versus

State & Ors.

DATE OF ORDER :: 01/05/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Prahlad Sharma, for petitioners
Mr. Arun Sharma, Dy.G.A.

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Instant petition has been basically filed by petitioners with the grievance that respondents started making construction on kacha road/path way for the villagers over the land belongs to the petitioners. According to them, without initiating any proceedings under the Land Acquisition Act, respondents are not competent to construct even kacha road to use their land as a path way for villagers.

Respondents have filed reply and specifically in Paras 4 & 6 it has been averred that sanction of kacha road construction was accorded by the District Collector, Jaipur under Famine Relief Works with intention to give benefit to the villagers of Hanutia and nearby villagers and dhanis and there was no requirement to acquire the said land under the said Scheme. It has also been averred that the land in question where construction was earlier undertaken to be used by

the villagers as path way for ingress and egress and treating the said land of kacha path way as Government land, construction of the road was started but it was later on stopped since there was no Famine Scheme in existence and apart from it, the adjacent land to the alleged path way is the actual land of road available, but has been encroached upon by the persons of nearby areas.

In view of specific averment made in Paras 4 & 6 of reply about the path way undertaken under Famine Scheme which is no more in existence and later on, construction was stopped by them. The relief, which the petitioners have prayed for substantially being accepted by the Government and in change circumstances, the writ petition has become infructuous.

Consequently, the writ petition has become infructuous, the same stands dismissed. However, if any action is taken by the respondents in future, petitioners will be free to avail remedy available to them under law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.